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10/618,640	07/15/2003	Hideki Sugiura	240356US0	5239

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EXAMINER

NOTE, JANIS L

ART UNIT	PAPER NUMBER
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1795

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ELECTRONIC

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1. The "Amendment to the claims" section filed on Jun. 27, 2008, does not amend or cancel claims. It merely provides a clean copy of the previously filed "Amendment to the claims" section on Dec. 28, 2007. Therefore, pending claims 1, 3-14, and 16-18 stand rejected for the reasons discussed in the Final rejection, mailed on Apr. 9, 2008, paragraphs 5-8.

2. Applicants' arguments filed on Jun. 27, 2008, after the mailing of the final rejection on Apr. 9, 2008, are not persuasive. For the reasons discussed in the Final rejection mailed on Apr. 9, 2008, paragraph 9, the Rule 132 declaration filed on Feb. 14, 2008, is insufficient to show that the Konya complex oxide particle diameters do not have a standard deviation σ that satisfies the relation $R/4 \leq \sigma \leq R$ recited in the instant claims. In addition, applicants' allegation that Konya does not satisfy the above relation based on a Gaussian distribution in the response filed on Jun. 27, 2008, is mere attorney argument. Applicants have not provided any credible objective evidence to support their allegation. There is no evidence on the present record to show that the Konya particle size distribution range of 40 to 180 nm is fairly represented by the Gaussian distribution as alleged by applicants. The Rule 132 filed on Feb. 14, 2008, page 3, states that "[a] number

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average particle diameter and standard deviation cannot be exactly found from the range of particle size distribution" disclosed in Konya. The arguments filed Jun. 27, 2008, do not explain why the Gaussian distribution is expected to be accurate. Accordingly, the rejections of claims 1, 3-14, and 16-18 over Konya set forth in the Final rejection, paragraphs 5-8, stand.

/Janis L. Dote/
Primary Examiner, Art Unit 1795